

CHARLES H. ADAMS.

APRIL 11, 1884.—Laid on the table and ordered to be printed.

Mr. ROWELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 1892.]

The Committee on War Claims, to whom was referred the bill (H. R. 1892) for the relief of Charles H. Adams, have had the same under advisement, and submit the following report:

The bill provides for the payment to Charles H. Adams of the sum of \$21,320, as balance due for 18,000 bushels of corn sold and delivered to the Government April, 1865.

The history of this case, so far as it is necessary to recite it, is as follows:

Adams brought suit against the United States at the December term, 1866, in the Court of Claims. In his petition Adams states as cause of action that in the month of April, 1865, he bargained and sold to Capt. William Currie, as assistant quartermaster of the United States, 18,000 bushels of corn, then in store at the town of Manteno, on the line of the Illinois Central Railroad; that the agreed price of the corn was \$1.30 per bushel, the corn to be delivered on board the cars at said town of Manteno; that the contract was not in writing, but that an order was given in writing to the superintendent of said railroad company, which order is hereinafter set out in the opinion of the court; alleges the immediate delivery of the corn on board the cars, as provided by the contract, in good merchantable condition, but that after it reached Cairo, owing to the negligence of the agents of the Government in permitting it to remain on the cars an unreasonable time, it thereby became deteriorated, and that most of the corn was on that account rejected.

The petition sets out the case in detail, but the foregoing are the material allegations. On a hearing, the following proceedings were had:

United States Court of Claims.

CHARLES H. ADAMS *vs.* THE UNITED STATES.

In this case the court finds the facts to be as follows:

I. About the 1st of April, 1865, Capt. William Currie, an assistant quartermaster charged with the duty of purchasing corn for the Army of the United States, gave to the claimant a parol order to purchase corn to be delivered at Cairo, Ill., subject to weight and inspection there. The claimant being unable to transport the corn from Manteno, Ill., where it then was, by reason of the refusal of the Illinois Central Railroad to carry private freight, reported to the quartermaster, Captain Currie, his inability to perform the agreement; whereupon, on the 15th April, 1865, at Saint Louis, Mo., it was agreed by parol between the claimant and Captain Currie that

he, the claimant, should sell to the defendants 18,000 bushels of good merchantable corn, subject to weight and inspection at Cairo, and that the price of the freight should be deducted from the price of the corn, and there was at the same time delivered to the claimant the following written order, signed by Captain Currie and approved by Colonel William Myers, the chief quartermaster of the Department of the Missouri.

ASSISTANT QUARTERMASTER'S OFFICE, FORAGE DEP'T,
Saint Louis, Missouri, April 15, 1865.

Mr. Wm. R. ARTHUR,
Supt. I. C. R. R., Chicago, Illinois :

SIR: I have purchased of C. H. Adams, at Manteno, Illinois, for the use of the Government, 18,000 bushels of corn, which I wish you to deliver at Cairo, Illinois, as soon as possible. Please furnish transportation at once and oblige

Your obedient servant,

WM. CURRIE,
Captain and Assistant Quartermaster.

By order Colonel Wm. Myers, Chief Quartermaster Department of the Missouri.
Approved for transportation.

WM. MYERS,
Colonel and Quartermaster.

Under and in pursuance of this order the claimant, on the 22d, 24th, and 25th of April, 1865, delivered to the Illinois Central Railroad Company, at Manteno, 18,000 bushels of corn. The corn was then in good, sound, merchantable condition, and was worth and had actually cost at Manteno the agreed price of \$1.30 per bushel. It was received by the railroad company as Government freight and was charged at Government rates, the same being less than the rates charged to private persons, and the charges of the railroad company for the transportation of this corn to Cairo were paid by the defendants. The officers of the railroad also considered and treated the corn as the property of the defendants, and no care or custody was exercised by the claimant over it after being delivered to them.

II. The corn was inspected within a day or two after its arrival at Cairo, and not being found in good condition was rejected by the inspecting officer. A few days thereafter the claimant called on the inspecting officer to ascertain why the corn was rejected, when the officer went with him and re-examined a considerable portion of the corn, when the claimant expressed great surprise to find it in such bad condition and was satisfied that the officer's action was correct. After the inspection which took place before the claimant appeared at Cairo, the Government officers did not attempt to do anything with the corn, but left it in the cars in which it came to Cairo, which were shoved down on one of the side-tracks of the railroad. Afterwards General Allen, the chief quartermaster of the Grand Division of the Mississippi, with a view to save claimant as far as possible from loss, gave authority to Captain Flanigan, the quartermaster in charge at Cairo, to ship to Saint Louis any portion of the corn which might be fit for immediate use there, and in pursuance thereof a quantity, somewhere between 3,000 and 6,000 bushels, was shipped to Saint Louis, and the attempt was there made by the officers of the Quartermaster's Department to use the same, but only 1,600 bushels of it were used by the Government, for which quantity vouchers were offered to claimant, which he refused to accept. The rest of the quantity so shipped was found to be unfit for use. It does not appear who paid the freight from Cairo to Saint Louis on the corn so sent to Saint Louis.

All the corn was destroyed and lost except the 1,600 bushels used at Saint Louis. If the corn had been properly cared for immediately after the time of its first inspection at Cairo, a greater portion than the 1,600 bushels might have been saved.

DRAKE, Ch. J., delivered the opinion of the court :

Upon the foregoing facts the court announces the conclusion of law to be that the claimant is entitled to recover for no more than the 1,600 bushels of corn used at Saint Louis.

The contract under which the 18,000 bushels were shipped from Manteno to Cairo was a parol contract between an assistant quartermaster and the claimant, entered into without previous advertisement, without any exigency declared by the commanding officer of the Army or detachment with which the assistant quartermaster was connected, and without any authority from such commanding officer, and was not reduced to writing and signed by the parties as the law requires. Such a contract is void, as has been repeatedly held by this court.

But, as we have also repeatedly held, he who delivers supplies to the Government under an executory contract, which, as such, is void, is entitled to pay for so much of the supplies as the Government receives and uses.

It is therefore the judgment of the court that the claimant recover for the said 1,600 bushels of corn, at \$1.30 per bushel, making in the aggregate \$2,080.

It is insisted that the court did not correctly find the facts. That there is evidence to prove that the corn was not inspected at Cairo within a day or two after its arrival, but that its deterioration was, as shown by the evidence, caused by delay in inspection, and that therefore the Government ought in good conscience to be responsible for the loss occasioned thereby.

It is also claimed that the court improperly found that the corn was to be subject to weight and inspection at Cairo.

We are not disposed to review the findings of the court as to the facts. There is evidence in the record on which to base the findings, and while we know as a matter of common report, and from evidence taken in many lawsuits growing out of corn delivered at Cairo about the time this corn was delivered, that there was a large amount of corn then arriving at Cairo, and that great difficulties were experienced both in regard to transportation and delivery, yet the positive testimony in this case and the findings of the court are such that we would regard it as a dangerous precedent to reverse those findings.

It is a well-known fact that hundreds of thousands of bushels of corn delivered at Cairo for the Government in the spring of 1865 failed to pass inspection, and that many dealers were bankrupted on that account. This claimant was one of the unfortunate dealers. He has had his day in court; has received pay for all the corn which the Government received. He neglected to take an appeal to the Supreme Court from the judgment rendered by the Court of Claims, without sufficient excuse, and under the rules which we have adopted for our guidance we are obliged to report adversely.

Had his corn passed inspection at Cairo and the Government had refused to take it because all legal forms had not been complied with in making the contract, we should not hesitate to report a different conclusion.

In view of the findings of fact of the Court of Claims, your committee recommend that the bill do not pass.

